

**Senate File 2182 - Introduced**

SENATE FILE 2182

BY BROWN

**A BILL FOR**

1 An Act relating to association health plans, a type of multiple  
2 employer welfare arrangement, established by bona fide  
3 associations of employers and including contingent effective  
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 507A.4, subsection 9, Code 2018, is  
2 amended to read as follows:

3 9. a. Transactions involving a multiple employer welfare  
4 arrangement, as defined in section 3 of the federal Employee  
5 Retirement Income Security Act of 1974, 29 U.S.C. §1002,  
6 paragraph 40, if the multiple employer welfare arrangement  
7 meets all of the following conditions:

8 (1) The arrangement is administered by an authorized  
9 insurer or an authorized third-party administrator.

10 ~~(2) The arrangement has been in existence and provided~~  
11 ~~health insurance in Iowa for at least five years prior to July~~  
12 ~~1, 1997.~~

13 ~~(3)~~ (2) The arrangement ~~was~~ is established by a trade,  
14 industry, or professional association of employers that  
15 has a constitution or bylaws, and ~~has been~~ is organized and  
16 maintained in good faith ~~for at least ten continuous years~~  
17 ~~prior to July 1, 1997.~~

18 ~~(4)~~ (3) The arrangement registers with and obtains  
19 and maintains a certificate of registration issued by the  
20 commissioner ~~of insurance.~~

21 ~~(5)~~ (4) The arrangement is subject to the jurisdiction  
22 of the commissioner ~~of insurance, including regulatory~~  
23 ~~oversight~~ and complies with all rules and solvency standards as  
24 established ~~by rules adopted by the commissioner of insurance~~  
25 pursuant to chapter 17A.

26 b. A multiple employer welfare arrangement ~~registered with~~  
27 ~~the commissioner of insurance~~ that does not meet the solvency  
28 ~~standards~~ requirements established by ~~rule adopted by the~~  
29 ~~commissioner of insurance~~ is pursuant to chapter 17A shall be  
30 subject to chapter 507C.

31 c. A multiple employer welfare arrangement that meets all  
32 of the conditions of paragraph "a" shall not be considered any  
33 of the following:

34 (1) An insurance company or association of any kind or  
35 character under section 432.1.

1 (2) A member of the Iowa individual health benefit  
2 reinsurance association under [section 513C.10](#).

3 (3) A member insurer of the Iowa life and health insurance  
4 guaranty association under [section 508C.5, subsection 12](#).

5 d. A multiple employer welfare arrangement registered with  
6 the commissioner ~~of insurance~~ shall file with the commissioner  
7 ~~of insurance~~ on or before March 1 of each year a copy of the  
8 report required to be filed by the multiple employer welfare  
9 arrangement with the United States department of labor pursuant  
10 to 29 C.F.R. §2520.101-2. A newly formed multiple employer  
11 welfare arrangement shall file with the commissioner a copy  
12 of the report required to be filed pursuant to 29 C.F.R.  
13 §2520.101-2 by a newly formed multiple employer welfare  
14 arrangement with the United States department of labor thirty  
15 days prior to operating in any state. The copy shall be filed  
16 with the commissioner within thirty calendar days of the date  
17 that the multiple employer welfare arrangement files the report  
18 with the United States department of labor.

19 e. ~~When not otherwise provided, a~~ A foreign or domestic  
20 multiple employer welfare arrangement doing business in this  
21 state shall pay ~~to the commissioner of insurance the fees~~  
22 ~~as required in pursuant to~~ [section 511.24](#) unless otherwise  
23 provided by law.

24 Sec. 2. Section 507A.4, Code 2018, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 11. An association health plan that meets  
27 the requirements of section 513D.1.

28 Sec. 3. Section 509.1, Code 2018, is amended by adding the  
29 following new subsection:

30 NEW SUBSECTION. 8A. A policy of group health insurance  
31 coverage issued to an associated health plan pursuant  
32 to section 513D.1 that is subject to regulation by the  
33 commissioner.

34 Sec. 4. Section 509.1, subsection 9, unnumbered paragraph  
35 1, Code 2018, is amended to read as follows:

1 A policy issued to a resident of this state under a group  
2 life, accident, or health insurance policy issued to a group  
3 other than one described in subsections 1 through & 8A, subject  
4 to the following requirements:

5 Sec. 5. NEW SECTION. 513D.1 **Association health plans.**

6 1. A multiple employer welfare arrangement, as defined in  
7 section 3 of the federal Employee Retirement Income Security  
8 Act of 1974, 29 U.S.C. §1002, paragraph 40, is an association  
9 health plan established by a bona fide association of employers  
10 if all of the following requirements are satisfied:

11 a. The association exists for the purpose, in whole or in  
12 part, of sponsoring a group health plan that it offers to its  
13 employer members.

14 b. Each employer member of the association participating  
15 in the group health plan is a person acting directly as an  
16 employer of at least one employee who is a participant covered  
17 under the plan. A working owner of a trade or business may  
18 qualify as both an employer and an employee of the trade or  
19 business. Absent knowledge to the contrary, the association  
20 sponsoring the group health plan may reasonably rely on written  
21 representations from the individual seeking to participate as  
22 a working owner as a basis for concluding that all qualifying  
23 conditions are satisfied. A working owner must meet all of the  
24 following requirements:

25 (1) Must be an individual who has an ownership right of  
26 any nature in a trade or business, whether incorporated or  
27 unincorporated, including a partner or other self-employed  
28 individual.

29 (2) Must be an individual who is earning wages or  
30 self-employment income from the trade or business for providing  
31 personal services to the trade or business.

32 (3) Must be an individual who is not eligible to participate  
33 in any subsidized group health plan maintained by any other  
34 employer of the individual or of the spouse of the individual.

35 (4) Must be an individual who either works at least

1 thirty hours per week or at least one hundred twenty hours  
2 per month, or has earned income from such trade or business  
3 that at a minimum equals the working owner's costs of  
4 coverage of participation by the working owner and any  
5 covered beneficiaries in the group health plan sponsored by  
6 the association of employers in which the working owner is  
7 participating.

8     *c.* The association has a formal organizational structure, a  
9 governing body, and bylaws or a similar indication of formality  
10 appropriate under state law for the legal form under which the  
11 association operates.

12     *d.* The employer members control the association's functions  
13 and activities, including the establishment and maintenance of  
14 the group health plan, either directly or through the regular  
15 election of directors, officers, or similar representatives.

16     *e.* The employer members have a commonality-of-interest that  
17 may be established by any of the following:

18         (1) The employer members are in the same trade, industry,  
19 line of business, or professional association.

20         (2) The employer members have a principal place of business  
21 wholly within the same state or within the boundaries of the  
22 same metropolitan area even if such boundaries extend across  
23 more than one state.

24     *f.* Health coverage offered to employer members through the  
25 association is available to employees and former employees of  
26 employer members, and the family members or other beneficiaries  
27 of such employees and former employees.

28     *g.* The association is not a health insurance issuer  
29 as described in section 733(b)(2) of the federal Employee  
30 Retirement Income Security Act of 1974, 29 U.S.C. §1191b, or  
31 owned or controlled by such a health insurance issuer.

32     *h.* The association health plan is administered by an  
33 authorized insurer or an authorized third-party administrator.

34     *i.* The association complies with all regulations related  
35 to association health plans as issued by the United States

1 department of labor.

2 *j.* The association registers with and obtains and maintains  
3 a certificate of registration issued by the commissioner.

4 *k.* The association complies with all rules and solvency  
5 requirements as established by the commissioner.

6 *l.* An association health plan registered with the  
7 commissioner files with the commissioner on or before March 1  
8 of each year a copy of the report required to be filed by the  
9 association with the United States department of labor pursuant  
10 to 29 C.F.R. §2520.101-2. A newly formed association shall  
11 file with the commissioner a copy of the report required to  
12 be filed pursuant to 29 C.F.R. §2520.101-2 by a newly formed  
13 association with the United States department of labor thirty  
14 days prior to operating in any state. The copy shall be filed  
15 with the commissioner within thirty calendar days of the  
16 date the association files the report with the United States  
17 department of labor.

18 *m.* A foreign or domestic association health plan doing  
19 business in this state shall pay fees pursuant to section  
20 511.24 unless otherwise provided by law.

21 2. A bona fide association, and any health coverage offered  
22 by the bona fide association, must comply with all of the  
23 following:

24 *a.* The association shall not condition employer membership  
25 in the association based on any health factor, as defined in  
26 29 C.F.R. §2590.702(a), of an employee, former employee, or  
27 an employee's or former employee's family members or other  
28 beneficiaries.

29 *b.* Subject to paragraph "d", the group health plan sponsored  
30 by the association shall comply with 29 C.F.R. §2590.702(b)  
31 with respect to nondiscrimination in rules for eligibility for  
32 benefits.

33 *c.* Subject to paragraph "d", the group health plan sponsored  
34 by the association shall comply with 29 C.F.R. §2590.702(c)  
35 with respect to nondiscrimination in premiums or contributions

1 required by any participant or beneficiary for coverage under  
2 the group health plan.

3     *d.* In applying the nondiscrimination provisions of  
4 paragraphs "*b*" and "*c*", the association shall not treat  
5 different employer members of the association as distinct  
6 groups of similarly situated individuals.

7     3. The association health plan must comply with all  
8 applicable regulations issued by the United States department  
9 of labor pursuant to the federal Employee Retirement Income  
10 Security Act of 1974 related to association health plans.

11     4. The commissioner may enter into an agreement with an  
12 insurance regulator from a contiguous state if an association  
13 health plan has employer members in this state and the  
14 contiguous state to obtain and share information, in compliance  
15 with all applicable privacy laws, relating to the association  
16 health plan as necessary to enforce compliance with this  
17 section.

18     5. An association health plan that meets all the  
19 requirements of this section shall not be considered any of the  
20 following:

21     *a.* An insurance company or association of any kind or  
22 character under section 432.1.

23     *b.* A member of the Iowa individual health benefit  
24 reinsurance association under section 513C.10.

25     *c.* A member insurer of the Iowa life and health insurance  
26 guaranty association under section 508C.5.

27     Sec. 6. NEW SECTION. 513D.2 Rules and enforcement.

28     1. The commissioner shall adopt rules, as necessary,  
29 pursuant to chapter 17A to administer this chapter.

30     2. The commissioner may take any enforcement action under  
31 the commissioner's authority to enforce compliance with this  
32 chapter.

33     Sec. 7. EMERGENCY RULES. The commissioner may adopt  
34 emergency rules under section 17A.4, subsection 3, and  
35 section 17A.5, subsection 2, paragraph "*b*", to administer

1 the provisions of this Act and the rules shall be effective  
2 immediately upon filing unless a later date is specified in the  
3 rules. Any rules adopted in accordance with this section shall  
4 also be published as a notice of intended action as provided  
5 in section 17A.4.

6 Sec. 8. CONTINGENT EFFECTIVE DATE. This Act takes effect  
7 upon the effective date of a United States department of  
8 labor's regulation amending 29 C.F.R. pt. 2510 in such a manner  
9 as to allow the creation of association health plans consistent  
10 with the provisions of this Act.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with  
13 the explanation's substance by the members of the general assembly.

14 This bill relates to association health plans, a type of  
15 multiple employer welfare arrangement, established by bona fide  
16 associations of employers.

17 The United States department of labor issued proposed  
18 rules in 83 Fed. Reg. 617 (January 5, 2018) that broaden the  
19 criteria under Title I of the federal Employee Retirement  
20 Income Security Act (ERISA) to allow more employers to form  
21 an association health plan to offer a group health plan  
22 to employees, former employees, family members, and other  
23 beneficiaries of the employer members of the association.

24 Currently, employer groups are prohibited from forming  
25 associations for the sole purpose of providing group health  
26 coverage. Under the proposed federal regulations, an  
27 association may exist solely for the purpose of sponsoring  
28 a group health plan for its employer members. The current  
29 commonality-of-interest regulations require employer members  
30 to have a commonality-of-interest such as the same trade,  
31 industry, line of business, or profession. The proposed  
32 federal regulations, and the bill, also allow the commonality  
33 to be based on the employer members having a principal place  
34 of business in the same state or the same metropolitan area,  
35 including a metropolitan area that crosses state lines.



1 The bill requires each employer member of the association  
2 to act directly as the employer of at least one employee that  
3 participates in the group health plan. The bill outlines  
4 the criteria for a self-employed individual to be classified  
5 as both an employer and employee for purposes of joining  
6 an association. Each employer member must control the  
7 functions of the association by electing directors or other  
8 officers of the association and the association must have an  
9 organizational structure that includes a governing body and  
10 bylaws. The association cannot be a health insurance issuer or  
11 be controlled by one. Other requirements for an association  
12 health plan to comply with federal and state requirements are  
13 outlined in the bill. To ensure compliance, the bill allows  
14 the commissioner of insurance to enter into an agreement  
15 to exchange information with an insurance regulator in a  
16 contiguous state if an association health plan has employer  
17 members in this state and the contiguous state.

18 The bill outlines the nondiscrimination provisions,  
19 including eligibility for coverage provisions, that an  
20 association health plan must comply with. The bill requires  
21 the commissioner to adopt rules to administer the bill and  
22 allows the commissioner to take any enforcement action under  
23 the commissioner's authority to enforce compliance with the  
24 bill. The commissioner may engage in emergency rulemaking  
25 as necessary. An association health plan that meets all the  
26 requirements of the bill shall not be considered an insurance  
27 company or association under Code section 432.1, a member of  
28 the Iowa individual health benefit reinsurance association  
29 under Code section 513C.10, or a member insurer of the Iowa  
30 life and health insurance guaranty association under Code  
31 section 508C.5.

32 The bill amends Code section 507A.4, unauthorized insurers,  
33 to update the language related to the exemption from the  
34 provisions of the Code section for multiple employer welfare  
35 arrangements. The bill also includes a provision to exempt

1 association health care plans from Code section 507A.4.  
2     The bill amends Code section 509.1 to allow a policy of  
3 group health insurance sponsored by an association health plan  
4 pursuant to the provisions of the bill to be delivered in the  
5 state. The bill takes effect upon the effective date of a  
6 United States department of labor's regulation amending 29  
7 C.F.R. pt. 2510 that allows the creation of association health  
8 plans.